



**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

**SAMUEL MORRIS OVERSTREET,
Petitioner,**

**Civil Action No. 7:07-cv-00365
MEMORANDUM OPINION**

v.

**UNITED STATES OF AMERICA,
Respondent.**

**By: Hon. James C. Turk
Senior United States District Judge**

Petitioner Samuel Morris Overstreet, a federal inmate proceeding pro se, has submitted to the court this motion to vacate, set aside or correct sentence, pursuant to 28 U.S.C. § 2255. Upon review of the record, the court concludes that the action must be summarily dismissed as successive.

This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. *See* § 2255 para. 8. Court records indicate that petitioner has previously filed a § 2255 motion, Civil Action No. 7:06-cv-00609, regarding the same conviction and/or sentence. Thus, petitioner's current § 2255 motion is a second or subsequent one under § 2255 para. 8. As petitioner has not submitted any evidence of having obtained certification from the Court of Appeals to file a second or successive § 2255 motion, the court must dismiss the action without prejudice. An appropriate order will issue this day.

Petitioner is hereby advised of the procedure for obtaining certification from the United States Court of Appeals for the Fourth Circuit to have this court review a successive § 2255 motion. Petitioner must submit a copy of successive § 2255 motion to the Court of Appeals, along with a motion requesting a three-judge panel certification that the district court may review the successive

§ 2255 motion. See 28 U.S.C. § 2244 (as amended, 1996). A Fourth Circuit form and instructions for filing this motion are available from the Fourth Circuit at the following address: Office of the Clerk, U. S. Court of Appeals for the Fourth Circuit, 900 E. Main St., Richmond, VA 23219.

The Clerk is directed to send copies of this opinion and the accompanying order to petitioner.

ENTER: This 31st day of July, 2007.



Senior United States District Judge